

1 XAVIER BECERRA  
2 Attorney General of California  
3 MARY CAIN-SIMON  
4 Supervising Deputy Attorney General  
5 GREG W. CHAMBERS  
6 Deputy Attorney General  
7 State Bar No. 237509  
8 455 Golden Gate Avenue, Suite 11000  
9 San Francisco, CA 94102-7004  
10 Telephone: (415) 510-3382  
11 Facsimile: (415) 703-5480  
12 *Attorneys for Complainant*

8  
9 **BEFORE THE**  
10 **MEDICAL BOARD OF CALIFORNIA**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **Timothy Lee Young, M.D.**  
14 **3400 Emerson Street, Suite A**  
15 **Clearlake, CA 95422**

16 **Physician's and Surgeon's Certificate**  
17 **No. A 41608,**

18 Respondent.

Case No. 800-2015-019000

**DEFAULT DECISION**  
**AND ORDER**

[Gov. Code, §11520]

19 **FINDINGS OF FACT**

20 1. On September 26, 2018, Complainant Kimberly Kirchmeyer, in her official capacity  
21 as the Executive Director of the Medical Board of California, Department of Consumer Affairs,  
22 filed Accusation No. 800-2015-019000 against Timothy Lee Young, M.D. ("Respondent) before  
23 the Medical Board of California,

24 2. On March 25, 1985, the Medical Board of California ("Board") issued Physician's  
25 and Surgeon's Certificate No. A 41608 to Respondent. The Physician's and Surgeon's Certificate  
26  
27  
28

1 was in full force and effect at all times relevant to the charges brought herein and expired on  
2 December 31, 2016. (Exhibit Package, Exhibit 1, certificate of licensure.)<sup>1</sup>

3 3. On November 16, 2015, Respondent collapsed while performing eye surgery.  
4 Respondent was moved to the emergency room for treatment and Respondent's Ethanol/Alcohol  
5 Level was found to be 155.0 mg/dL, almost twice the legal limit of alcohol permitted when  
6 driving a motor vehicle, constituting unprofessional conduct for the practice of medicine under  
7 the influence of alcohol, and the dangerous use of alcohol. (Exhibit Package, Exhibit 2,  
8 Declaration of Sandra Karpenko, M.D.)

9 4. On April 25, 2017, in a criminal proceeding entitled *The People of the State*  
10 *of California v Timothy Lee Young*, in Lake County Superior Court, Case Number CR944014,  
11 Respondent was convicted by plea of "no contest" to violating California Vehicle Code section  
12 23103/23103.5, "wet reckless" driving. (Exhibit Package, Exhibit 3, certified conviction.)

13 5. On September 26, 2018, Dianne Richards, an employee of the Complainant Agency,  
14 served by Certified Mail a copy of the Accusation No. 800-2015-019000, Statement to  
15 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,  
16 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 3400  
17 Emerson Street, Ste. A, Clearlake, CA 95422. (Exhibit Package, Exhibit 4, copy of the  
18 Accusation, the related documents, and Declaration of Service.)

19 4. Service of the Accusation was effective as a matter of law under the provisions of  
20 Government Code section 11505, subdivision (c).

21 5. On or about October 9, 2018, the aforementioned documents were returned by the  
22 U.S. Postal Service marked "Return to Sender." (Exhibit Package, Exhibit 5, copy of the  
23 envelope returned by the post office.)

24 6. On October 23, 2018, after a search of the internet was conducted for an alternate  
25 address for Respondent, Dianne Richards, an employee of the Complainant agency, served by  
26 Certified Mail a copy of the Accusation No. 800-2015-019000, Statement to Respondent, Notice

27 \_\_\_\_\_  
28 <sup>1</sup> The evidence in support of this Default Decision and Order is submitted herewith as the  
"Exhibit Package."

1 of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and  
2 11507.7 to Respondent at 3345 Scott Valley Road, Lakeport, CA 95453-9464. Those same  
3 documents were also served to the last known address of Respondent's sister, Elizabeth  
4 Hightower at 6820 Millwood Road, Cumming, GA 30041. (Exhibit Package, Exhibit 6, copy of  
5 the Declaration of Service.)

6 7. On or about November 19, 2018, the documents sent to Respondent at 3345 Scott  
7 Valley Road, Lakeport, CA 95453-9464 were returned by the U.S. Postal Service marked "Return  
8 to Sender, Attempted – Not Known, Unable to Forward." (Exhibit Package, Exhibit 7, copy of the  
9 envelope returned by the post office.)

10 8. On or about November 26, 2018, the documents sent to Respondent's sister,  
11 Elizabeth Hightower at 6820 Millwood Road, Cumming, GA 30041 were returned by U.S. Postal  
12 Service marked "Return to Sender, Refused, Unable to Forward." (Exhibit Package, Exhibit 8,  
13 copy of the envelope returned by the post office.)

14 10. On December 6, 2018, counsel for Complainant served one Courtesy Notice of  
15 Default upon Respondent at Respondent's address of record and one at his sister's last known  
16 address. Each Courtesy Notice of Default provided Respondent with a copy of the Accusation,  
17 the Statement to Respondent, a Notice of Defense, Request for Discovery, and discovery statutes,  
18 and advised Respondent that he was in default. (Exhibit Package, Exhibit 9, copy of the Courtesy  
19 Notice of Default and accompanying documents, and Declarations of Service.)

20 11. On December 19, 2018, the aforementioned documents sent to Respondent were  
21 returned by the U.S. Postal Service marked "Return to Sender, Not Deliverable as Addressed,  
22 Unable to Forward." (Exhibit Package, Exhibit 10, copy of the envelope returned by the post  
23 office.)

24 12. On December 26, 2018, an expert for the Medical Board opined that Respondent was  
25 intoxicated while performing eye surgery on November 16, 2015, and that his level of  
26 intoxication could have been injurious to himself or his patient and that his actions constituted  
27 unprofessional conduct. (Exhibit Package, Exhibit 2, Declaration of Sandra Karpenko, M.D.)  
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

2  
3

4

5  
6  
7  
8

901

2

3  
4  
5

6  
7  
8  
9  
20

## 21

22  
23  
24  
25

26  
27

28

19. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in the Exhibit Package, finds that the allegations in Accusation No. 800-2015-019000 are true:

A. Unprofessional Conduct – criminal conviction and dangerous use of alcohol pursuant to Business and Professions Code sections 2234, 2236, 2239, and California Code of Regulations, title 16, section 1360.

B. Unprofessional Conduct - dangerous use of alcohol and practice of medicine while under the influence of alcohol pursuant to Business and Professions Code sections 2234, 2239, and 2280.

20. The Medical Board of California is authorized to revoke Respondent's Physician's and Surgeon's Certificate based upon the above-referenced violations alleged in the Accusation.

## ORDER

IT IS SO ORDERED that Physician's and Surgeon's Certificate No. A 41608, heretofore issued to Respondent Timothy Lee Young, M.D., is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on February 22, 2019 at 5:00 p.m.

It is so ORDERED. January 23, 2019

Kimberly Kirchmeyer, Executive Director  
FOR THE MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS

1 XAVIER BECERRA  
Attorney General of California  
2 MARY CAIN-SIMON  
Supervising Deputy Attorney General  
3 GREG W. CHAMBERS  
Deputy Attorney General  
4 State Bar No. 237509  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 510-3382  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*  
7

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2015-019000

13 **Timothy Lee Young, M.D.**  
14 **3400 Emerson Street, Suite A**  
**Clearlake, CA 95422**

**A C C U S A T I O N**

15 **Physician's and Surgeon's Certificate**  
16 **No. A 41608,**

Respondent.

17  
18  
19 Complainant alleges:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
23 Affairs (Board).

24 2. On or about March 25, 1985, the Medical Board issued Physician's and Surgeon's  
25 Certificate Number A 41608 to Timothy Lee Young, M.D. (Respondent). The Physician's and  
26 Surgeon's Certificate expired on December 31, 2016, and has not been renewed. Said certificate  
27 was subject to a Public Reprimand effective September 19, 2014.

28 ///

## JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(f) Any action or conduct which would have warranted the denial of a certificate.

1       “(g) The practice of medicine from this state into another state or country without meeting  
2 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
3 apply to this subdivision. This subdivision shall become operative upon the implementation of the  
4 proposed registration program described in Section 2052.5.

5       “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
6 participate in an interview by the board. This subdivision shall only apply to a certificate holder  
7 who is the subject of an investigation by the board.”

8       6.     Section 2236 of the Code states, part:

9       “(a) The conviction of any offense substantially related to the qualifications, functions, or  
10 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this  
11 chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive  
12 evidence only of the fact that the conviction occurred.

13       “... (d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is  
14 deemed to be a conviction within the meaning of this section and Section 2236.1. The record of  
15 conviction shall be conclusive evidence of the fact that the conviction occurred.”

16       7.     Section 2239 of the Code states:

17       “(a) The use or prescribing for or administering to himself or herself, of any controlled  
18 substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic  
19 beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to  
20 any other person or to the public, or to the extent that such use impairs the ability of the licensee  
21 to practice medicine safely or more than one misdemeanor or any felony involving the use,  
22 consumption, or self-administration of any of the substances referred to in this section, or any  
23 combination thereof, constitutes unprofessional conduct. The record of the conviction is  
24 conclusive evidence of such unprofessional conduct.

25       “(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is  
26 deemed to be a conviction within the meaning of this section. The Medical Board may order  
27 discipline of the licensee in accordance with Section 2227 or the Medical Board may order the  
28 denial of the license when the time for appeal has elapsed or the judgment of conviction has been



1 affirmed on appeal or when an order granting probation is made suspending imposition of  
2 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal  
3 Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty,  
4 or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or  
5 indictment."

6 8. Section 2280 of the Code states:

7 "No licensee shall practice medicine while under the influence of any narcotic drug or  
8 alcohol to such extent as to impair his or her ability to conduct the practice of medicine with  
9 safety to the public and his or her patients. Violation of this section constitutes unprofessional  
10 conduct and is a misdemeanor."

11 9. California Code of Regulations, title 16, section 1360, states:

12 "For the purposes of denial, suspension or revocation of a license, certificate or permit  
13 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be  
14 considered to be substantially related to the qualifications, functions or duties of a person holding  
15 a license, certificate or permit under the Medical Practice Act if to a substantial degree it  
16 evidences present or potential unfitness of a person holding a license, certificate or permit to  
17 perform the functions authorized by the license, certificate or permit in a manner consistent with  
18 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the  
19 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
20 violation of, or conspiring to violate any provision of the Medical Practice Act."

21 **FACTS**

22 10. On or about April 1, 2016, at approximately 2:20 p.m., Respondent, driving his car  
23 under the influence of alcohol, ran off the road and struck a parked car. After being contacted by  
24 police, Respondent admitted to consuming two 12 ounce drinks containing vodka and Sobe  
25 approximately 13 hours prior to the accident.

26 11. Respondent provided preliminary alcohol screening tests that registered .09% and .09  
27 % blood alcohol content (BAC) at 4:20 p.m. and 4:24 p.m., respectively. A blood draw of  
28

1 Respondent was conducted at 5:05 p.m. The result of the blood draw was a BAC of .09%.

2 Respondent was subsequently arrested.

3 12. On or about April 25, 2017, in a criminal proceeding entitled *The People of the State*  
4 *of California v Timothy Lee Young*, in Lake County Superior Court, Case Number CR944014,  
5 Respondent was convicted by plea of “no contest” to violating California Vehicle Code section  
6 23103/23103.5, “wet reckless” driving. Respondent was sentenced to 1 day in county jail, with  
7 credit for time served; placed on three years’ probation; ordered to complete 40 hours’  
8 community service, and enroll in the Wet Reckless Program.

9 13. On or about November 16, 2015, Respondent collapsed while performing eye surgery  
10 at St. Helena Hospital. Respondent was moved to the emergency room for treatment. His  
11 Ethanol/Alcohol Level was found to be 155.0 mg/dL.

12 14. Respondent was subsequently flown to and treated at U.C. Davis Medical Center for  
13 hemorrhagic stroke.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct – Criminal Conviction/Dangerous Use of Alcohol)**

16 15. Respondent is subject to disciplinary action under section 2234 (unprofessional  
17 conduct), and/or section 2236 and California Code of Regulations, title 16, section 1360 (criminal  
18 conviction), and/or section 2239 (dangerous use of alcohol), in that, as described above, on or  
19 about April 1, 2016, Respondent struck a parked car while he was driving with a BAC of .09%;  
20 and that on or about April 25, 2017, in a criminal proceeding entitled *The People of the State of*  
21 *California v Timothy Lee Young*, in Lake County Superior Court, Case Number CR944014,  
22 Respondent was convicted by plea of “no contest” to violating California Vehicle Code section  
23 23103/23103.5, “wet reckless” driving. “Wet reckless” driving, which is considered a prior  
24 driving under the influence offense pursuant to California Vehicle Code sections 23540, 23546,  
25 23550, 23560, 23566 and 23622, is substantially related to the qualifications, functions and duties  
26 of a physician and surgeon, and constitutes unprofessional conduct and cause for discipline  
27 pursuant to sections 2234 and 2236 of the Code, and title 16, section 1360 of the California Code  
28 of Regulations.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Dangerous Use of Alcohol/Practice of Medicine While Under the**  
3 **Influence of Alcohol)**


4 16. Respondent is subject to disciplinary action under section 2234 (unprofessional  
5 conduct), and/or section 2239 (dangerous use of alcohol), and/or section 2280 (practice of  
6 medicine under the influence of alcohol), in that, as described above, on or about November 16,  
7 2015, Respondent was performing eye surgery at St. Helena Hospital with almost twice the legal  
8 limit of alcohol in his system as is permitted when driving a motor vehicle.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
11 and that following the hearing, the Medical Board of California issue a decision:

- 12 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 41608,  
13 issued to Timothy Lee Young, M.D.;
- 14 2. Revoking, suspending or denying approval of Timothy Lee Young, M.D.'s authority  
15 to supervise physician assistants and advanced practice nurses;
- 16 3. Ordering Timothy Lee Young, M.D., if placed on probation, to pay the Board the  
17 costs of probation monitoring; and
- 18 4. Taking such other and further action as deemed necessary and proper.
- 19

20 DATED:  
21 September 26, 2018

  
22 KIMBERLY KIRCHMEYER  
23 Executive Director  
24 Medical Board of California  
25 Department of Consumer Affairs  
26 State of California  
27 Complainant  
28

SF2018201362  
Document1462